

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 19-86 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Pierre Cornelius Stewart,

Defendant.

This matter is before the Court upon Defendant Pierre Cornelius Stewart's ("Defendant") objection (Doc. No. 48) to Magistrate Judge Leo I. Brisbois' July 15, 2019 Report and Recommendation (Doc. No. 42) insofar as it recommends that Defendant's Motion to Suppress Evidence Obtained as a Result of Search and Seizure (Doc. No. 21) be denied.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

In the Report and Recommendation, Magistrate Judge Brisbois considered Defendant's argument that the stop of the motor vehicle in which he was a passenger on September 14, 2018, in Onamia, Minnesota was unlawful and, therefore, that the evidence seized as a result of the stop should be suppressed. The Magistrate Judge

found the testimony of Trooper Otterson, who initiated the stop, to be credible and that Trooper Otterson has a reasonable, articulable suspicion to justify the initial stop. (Doc. No. 42 at 12.) Defendant objects to the Report and Recommendation, arguing that Trooper Otterson's testimony was refuted by the squad car's video in critical respects and, therefore, that Trooper Otterson was not credible as to his claimed justifications for the stop. Defendant made the same arguments before the Magistrate Judge.

The Court has carefully reviewed Defendant's objection, as well as alleged discrepancies between Trooper Otterson's testimony and his squad video recording (Government Exhibit 1.) After that review, the Court finds no reason to depart from the Magistrate Judge's recommendations, which are both factually and legally correct. The Magistrate Judge thoroughly considered the squad car video and the purported discrepancies. The Court agrees that the testimony is credible and that Trooper Otterson had a reasonable, articulable suspicion to justify the stop. Accordingly, and based upon the Court's *de novo* review of the record, the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant Pierre Cornelius Stewart's objection (Doc. No. [48]) to Magistrate Judge Brisbois' July 15, 2019 Report and Recommendation is

OVERRULED.

2. Magistrate Judge Brisbois' July 15, 2019 Report and Recommendation
(Doc. No. [42]) is **ADOPTED**.

3. Defendant's Motion to Suppress (Doc. No. [21]) is **DENIED**.

Dated: September 5, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge